IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4089 of 2000

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BALDEVBHAI AMRATBHAI DESAI

Versus

MANAGING TRUSTEE RANUJ KELVANI MANDAL

Appearance:

MR MP PRAJAPATI for Petitioner

MR BD KARIA for Respondent No. 1

MR PR JOSHI AGP M/s PATEL ADVOCATES for Respondents Nos. 2 & 3.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 04/08/2000

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner before this court is a teacher in

the Primary Training College and is aggrieved by the order of termination of his service dated 17th April, 2000. It is submitted that the petitioner possesses all the necessary qualifications for such appointment and the petitioner was appointed after being selected by a duly constituted selection committee. The order of termination of service of the petitioner has been made pursuant to the Government communication dated 29th March, 2000, under which the respondent no.1 Institution has been informed that the petitioner does not possess the requisite qualification for appointment and his service, therefore, be terminated. Mr. Prajapati has contended that the reason for termination of service of the petitioner is not sustainable. The petitioner does possess the requisite qualifications for the post in question.

The Primary Teachers' Training College where the petitioner has been appointed is run and managed by Ranuj Kelavani Mandal, a Public Charitable Trust, the respondent no.1 herein (hereinafter referred to as 'the Trust'). On 16th May, 1997, the District Education Officer had issued a No Objection Certificate to the Trust for appointment of one teacher possessing the qualifications mentioned therein. Pursuant to the said certificate, an advertisement was published on 27th August, 1998. In answer to the said advertisement, on 31st August, 1998, the petitioner applied for appointment to the post of Assistant Teacher in the Primary Training College run by the Trust. The petitioner was called for interview by the selection committee, and after selection by the selection committee, was appointed on 17th January, 2000. After appointment of the petitioner, the Director of Primary Education has informed the Trust that the qualification of B.Ed. acquired by the petitioner from Hindi Sahitya Sammelan, Allahabad, is not a recognised qualification, the petitioner, therefore, can not be said to be qualified for appointment as Assistant Teacher, and his appointment being erroneous, he be discharged from service. Pursuant to the said instruction, the petitioner has been discharged from service on 17th April, 2000. However, his service has been protected by ad-interim order made by this court on 27th April, 2000.

Mr. Prajapati has strenuously urged that even if the petitioner's qualification of B.Ed. acquired from Hindi Sahitya Sammelan, Allahabad, is not considered to be valid, the other qualifications possessed by the petitioner makes him eligible for appointment to the post of Assistant Teacher and his service could not have been

terminated merely on the ground that the qualification of B.Ed. acquired by the petitioner is not recognised. He has also contended that while terminating the service of the petitioner, the principles of natural justice have not been followed, i.e. the petitioner has not been given an opportunity to show cause or of hearing against the intended action.

The appointments to the non-Government educational institutions are governed by the Gujarat Educational Institution (Pre-Primary and Primary Teachers Training College) Rules, 1984. Sub-Rule 2 (a) of Rule-5 thereof provides that teaching and non-teaching staff of such institution shall possess qualifications and experience mentioned in Appendix-II thereof. Clause-2 thereof provides for minimum qualifications and experience required of a teacher, which reads as under :

2 - For the post of teacher -

(1) A IInd class Bachelor's degree in Arts or in Science of a recognised University in IInd Class.

AND

(2) IInd class Diploma in Basic Education or a degree in Education in IInd class of a recognised University.

AND

(3) Atleast three years' experience in a recognised educational institution.

NOTE : A Post Graduate of a recognised University shall be given preference.

The petitioner possesses the qualification of IInd class Master's degree in Arts from Gujarat Vidyapith (which is a recognised degree) and a Ist class Bachelor's degree in Rural Studies conferred by Nutan Bharti Gram Vidyapith, which according to the petitioner, is a degree recognised by the State Government as equivalent to the Bachelor's degree in Arts. The petitioner also possesses IInd class Bachelor's degree in Education conferred by Hindi Sahitya Sammelan, Allahabad. The petitioner also possessed teaching experience of nearly three years in a recognised educational institution. Thus, according to the

petitioner, the petitioner possesses the requisite qualifications for appointment to the post of teacher in the Primary Teachers' Training College.

Mr. Joshi has relied upon the affidavit in reply made by the Deputy Director, Primary Education and the provisions contained in the National Council for Teacher Education Act, 1993. He has submitted that all Institutions offering a course or training in teacher's education is required to be recognised by the National Council for Teacher Education. Hindi Sahitya Sammelan, Allahabad, which gives training in teacher education and confers the degree of Shikshan Visharad (Bachelor of Education) is not an Institute recognised by the National Council for Teacher Education. This fact is evident from the communication dated 23rd Ferbruary, 2000, sent by the said Council. The qualification of Shikshan Visharad (B.Ed.) on which the petitioner relies, is not a recognised qualification. The petitioner, therefore, can not be said to be eligible for appointment as a teacher in the respondent no.1 College.

Considering the provisions contained in the National Council for Teacher Education Act, 1993, and the communication dated 23rd February, 2000 (placed on records at page-50), the petitioner can not be said to be possessing a valid qualification of a degree in Education. It is not disputed that the petitioner does possess the degree in Arts and the adequate experience as required in the above referred rules. However, in the event the petitioner's degree in Education is not considered to be a valid degree, whether the petitioner can be said to be possessing the alternative qualification i.e. IInd class Diploma in Basic Education. Mr. Prajapati has strenuously urged that the degree in Rural Studies acquired by the petitioner is a degree recognised by the State Government and is considered to be equivalent to a degree in Arts and petitioner is fully qualified for appointment. Prima-facie, the contention does not appear to be tenable. What is required is Diploma in Basic Education and the question that requires to be considered is whether degree in Rural Studies can be said to be either a Diploma or a degree in Basic Education. No supporting material is placed by either of the parties on the records of the matter which would enable this court to decide the issue.

It is also not disputed that the petitioner has not been given an opportunity to show cause against the intended action. The respondent no.1 though can not be

said to be 'a State' within the meaning of Article 12 of the Constitution of India, it is still bound by the principles of natural justice. The petition is required to be allowed on this short ground alone. The impugned order dated 17th April, 2000 (Annexure-B to the petition) is, therefore, quashed and set aside. The Trust may, however, take an appropriate action pursuant to the instructions contained in the communication dated 29th March, 2000 (Annexure-A to the petition), if desired, after offering an opportunity of showing cause to the petitioner. If the petitioner so desires, the petitioner may also be given an opportunity of personal hearing. The question whether the petitioner possesses the requisite qualification or Diploma in Basic Education or not, shall also be decided by the Trust. The petition is allowed. Ad-interim relief is vacated. Rule is made absolute. The parties shall bear their own costs.

(MS R.M.DOSHIT J)

JOSHI